

## **REMARKS/ARGUMENTS**

Reexamination of the captioned application is respectfully requested.

### **A. SUMMARY OF THIS AMENDMENT**

By the current amendment, Applicants basically:

1. Amend independent claims 1, 19, 51, 55, 59, and 62 (see remarks section B *infra*).
2. Add new claims 63 - 70 (see remarks section B *infra*).
3. Cancel claim 60 without prejudice or disclaimer.
4. Respectfully traverse all prior art rejections (see remarks section C *infra*).

### **B. THE AMENDMENTS TO THE CLAIMS AND NEW CLAIMS**

Existing independent claims 1, 19, 51, 55, 59, and 62 have been amended to specify that a number of slots or frames of a second frame structure of the second communications standard type is dependent upon the number and the duration of the at least one transmission gap of the first frame structure. The amendments are supported, e.g., by illustrations such as Fig. 9, Fig. 25 – Fig. 28, which show, e.g., the cross-hatched “TDMA frame usable for GPRS/EGPRS traffic”, as well as specification text which discusses the number of TDMA slots or frames that can be transmitted (see, for example, the paragraphs beginning on page 14, line 19, and continuing through page 16, line 2, and the paragraphs beginning on page 36, line 25, *et seq*).

Independent claim 62 is further amended to refer to a dual mode radio base station, as supported by “Scenario B” discussed, e.g., beginning on page 21, line 1 of the specification.

New dependent claims 63 – 68 specify a synchronization of the second frame structure of the second communications type with the first frame structure. For support, see, e.g., page 15, lines 19, *et seq.*

New dependent claim 69 resembles dependent claim 61 in specifying an adaptive control of the sharing based on a number of allocated and/or requested communications resources for the first communications and the second communications.

New independent claim 70 concerns a communications network comprising separate radio base station nodes, e.g., a first radio base station node and a second radio base station node, and is supported, e.g., by the discussion of Scenario A which begins on page 20, line 14 of the specification. Like the other independent claims, new independent claim 70 specifies that a number of usable slots or frames of the second frame structure is dependent upon a number and duration of the at least one transmission gap of the first frame structure.

### **C. PATENTABILITY OF THE CLAIMS**

Claims 1-61 again stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent 5,732,076 to Ketseoglou et al in view of U.S. Patent 5,649,287 to Forssen. All prior art rejections are respectfully traversed for at least the following reasons.

The office action correctly admits that US Patent 5,732,076 to Ketseoglou does not disclose “using the at least one transmission gap (TG) for communications according to the second communications standard for transmitting data of the second communications in the at least one transmission gap”. US Patent 5,732,076 to Ketseoglou aims to provide a composite time frame that is of a duration sufficient to fit an integral number of both the first and second time frames from which the composite

time frame is derived” (col. 23, lines 63 *et. seq.*). In conjunction with the embodiment of Fig. 26 (cited by the office action), US Patent 5,732,076 to Ketseoglou admits that there may be a situation in which time gaps may have to be inserted into his composite so that two of the second time frames have the same duration as a single first time frame (see, e.g., col. 24, lines 6 *et. seq.*). But US Patent 5,732,076 to Ketseoglou clearly states that the use of time gaps is disfavored and wasteful.

To remedy the deficiency of US Patent 5,732,076 to Ketseoglou the office action turns to US Patent Publication 2003/0031143 to Faerber. The office action particularly cites a portion (paragraphs [0027] – [0029] of Faerber which deals with transmission gaps being used for performing RSSI measurements and decoding. However, as explained beginning with Faerber paragraphs [0009], the transmission gaps referenced by Faerber are interludes that occur when a transmitter stops transmitting (when in a compressed mode) so that the unit to which the transmitter belongs can listen to another frequency and make the necessary measurements with respect to the other frequency. As stated in Faerber paragraphs [0011], the “subscriber station can tune the receiving device to another frequency band and receive and evaluate signals transmitted therein”.

The signals upon which RSSI measurements are performed are signals from another unit (e.g., another base station, e.g., a listened-to base station). There is no constraint that such signals listened to for RSSI measurements be sent by the listened-to base station only during the transmission gaps of a protocol of the listening base station. In fact, the listened-to base station is oblivious to the protocol and thus the frame structure of the listening base station. The signals of the type listened to by the listening base station are sent by the listened-to station in manner utterly uncoordinated with the listening station. Thus, Faerber’s listening (for RSSI measurement purposes) during a gap cannot teach or suggest the requirements of applicants’ independent claims that, e.g., a number of slots or frames of a second frame structure of the second communications standard type is dependent upon

the number and the duration of the at least one transmission gap of the first frame structure.

Nor does the combination of U.S. Patent 5,732,076 to Ketseoglou and US Patent Publication 2003/0031143 to Faerber teach or suggest the subject matter of others of applicants' claims, such as the dual-mode base station and dual base station node claims 62 and 70, for example.

#### **D. MISCELLANEOUS**

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly solicited.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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